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IN THE
SUPREME COURT OF THE UNITED STATES

October Term, 1975

NO. 75-721

In The Matter of EDWARD JOHN KAZUBOWSKI,
Bankrupt, (No. P-BK-71-782)

ANNA A. PHELPS,

Petitioner,

vs.

WILLIAM H. CHRISTISON, RECEIVER of the Bankruptcy Estate of Edward John Kazubowski, WILLIAM H. CHRISTISON, TRUSTEE of the Bankruptcy Estate of Edward John Kazubowski, CHARLES A. COVEY, BETTY DOLAR, also known as BETTY DOLAR KAZUBOWSKI, STEPHEN J. COVEY, REFEREE In Bankruptcy, and THE UNITED STATES OF AMERICA,

Respondents.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

ANNA A. PHELPS,
(Acting as Her Own Attorney, Having been admitted to the Roll of Attorneys in the United States District Court For the Southern District of Illinois on June 21, 1955)
R.F.D. #4, South Euclid Avenue
Princeton, Illinois 61356

PETITIONER, PRO SE

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I. Petitioner has filed timely notice of appeal to the court of Appeals with the clerk of the district court and has paid timely dock t fees in the court of Appeals upon notice from the clerk of the court of Appeals that the record had been transmitted to the court of Appeals, and the court of Appeals may not defeat and nullify petitioner's secured right to a judicial review upon the appeal by preventing and prohibiting petitioner from obtaining a proper and complete record for use on appeal pursuant to F.R.A.P. 4(a), 10(a), (e), 11(b), 28(a)(3),(e) and 30(a) promulgated by this Court, and thus deprive petitioner of First and Fifth Amendment Federal Constitutional rights by the dismissal of the appeal on August 18, 1975 ---- 31

II. A "procedural Maze" has been created to defeat a judicial review by the court of Appeals in that, inter alia, page 8 of the one-volume record certified and transmitted to the clerk of the court of Appeals establishes on its face that the record is incomplete and improper for use on this appeal, and, in addition the order of the district judge entered on February 12, 1975 establishes on its face that petitioner's Notice To Clerk To Prepare Record or Records For use on appeal to the court of Appeals is still withheld in the district court - 33

III. Under the Bankruptcy Rules, Effective October 1, 1973, Rules 4(a), 10(a), (e), 11(b), 28(a)(3), 28(e) and 30(a), F.R.A.P., have not been abrogated as to deny First and Fifth Amendment Federal Constitutional rights and as to confer power upon the lower Federal Court to legislate upon the subject of Bankruptcies, inconsistent with Article I, Section 8, Clause 4 of the United States Constitution, inconsistent with Article VI, Clause 2 of the United States Constitution, and inconsistent with the Rules promulgated by this Court for the right to a judicial review upon appeal with a proper and complete record for use on appeal ---------- 33

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IN THE
SUPREME COURT OF THE UNITED STATES

October Term, 1975

NO.

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In The Matter of EDWARD JOHN KAZUBOWSKI,
Bankrupt, (No. P-BK-71-782)

ANNA A. PHELPS,

Petitioner,

vs.

WILLIAM H. CHRISTISON, RECEIVER of the Bankruptcy Estate of Edward John Kazubowski, WILLIAM H. CHRISTISON, TRUSTEE of the Bankruptcy Estate of Edward John Kazubowski, CHARLES A. COVEY, BETTY DOLAR, also known as BETTY DOLAR KAZUBOWSKI, STEPHEN J. COVEY, REFEREE In Bankruptcy, and THE UNITED STATES OF AMERICA,

Respondents.

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PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR
THE SEVENTH CIRCUIT

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The petitioner Anna A. Phelps respectfully prays that a writ of certiorari issue to review the final judgment and order of the United States Court of Appeals For the Seventh Circuit dismissing the appeal of petitioner for lack of prosecution, issued on August 18, 1975, when petitioner was prohibited and

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prevented from obtaining a complete and proper record for use on appeal in the Matter of EDWARD JOHN KAZUBOWSKI, Bankrupt, being No. P-BK-71-782 in the United States District Court For the Southern District of Illinois, Northern Division, In Bankruptcy.

OPINIONS BELOW

The order or judgment of the Court of Appeals issued on August 18, 1975, not yet reported, appears as Appendix A attached hereto.

The orders of the Court of Appeals entered on January 20, 1975, on February 3, 1975, on February 12, 1975, on February 25, 1975, on March 12, 1975, on April 9, 1975, on May 6, 1975 and on June 26,1975, not reported, appear as Appendices B, C, D, E, F,G, H and I, respectively, attached hereto.

The order of the District Court entered on December 2, 1974 "NUNC PRO TUNC OCTOBER 29, 1974", "Affirming Referee On Review (Referee"s Order of July 1, 1974)", not reported, appears as Appendix J attached hereto.

The order of the District Court entered on February 12, 1975, not reported, appears as Appendix K

attached hereto.

The orders of the Referee In Bankruptcy entered on July 1, 1974, on July 26, 1974 and on August 1, 1974, not reported, appear as Appendices L, M and N, respectively, attached hereto.

## JURISDICTION

The final order and judgment of the Court of Appeals was entered on August 18, 1975. No petition for rehearing was filed in that the said final order or judgment dismissed petitioner's (appellant below) appeal for lack of prosecution when petitioner was prevented and prohibited from obtaining a complete and proper record for use on appeal.

This petition for writ of certiorari is filed within 90 days of August 18, 1975.

Basis for Federal jurisdiction in the District Court is 28 U.S.C. Section 1334.

This Court's jurisdiction is invoked under 28 U.S.C., Section 1254(1) which provides:

> "Cases in the courts of appeals may be reviewed by the Supreme Court by the following methods: (1) By writ of certiorari granted upon the petition of any party to any civil or criminal case,

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> before or after the rendition of judgment or decree;".

The power to prescribe by general rules, the forms of process, writs, pleadings, and motions, and the practice and procedure under the Bankruptcy Act is expressly conferred upon the Supreme Court pursuant to 28 U.S.C., Section 2075.

In addition, the Supreme Court has the power to review the order and judgment of the Court below pursuant to 28 U.S.C., Section 2106.

## QUESTIONS PRESENTED

I. WHERE PETITIONER HAS FILED TIMELY NOTICE OF APPEAL TO THE COURT OF APPEALS WITH THE CLERK OF THE DISTRICT COURT AND HAS PAID TIMELY DOCKET FEES IN THE COURT OF APPEALS UPON NOTICE FROM THE CLERK OF THE COURT OF APPEALS THAT THE RECORD HAS BEEN TRANSMITTED TO THE COURT OF APPEALS, MAY THE COURT OF APPEALS DEFEAT AND NULLIFY PETITIONER'S SECURED RIGHT TO A JUDICIAL REVIEW UPON APPEAL BY PREVENTING AND PROHIBITING PETITIONER FROM OBTAINING A PROPER AND COMPLETE RECORD FOR USE ON APPEAL PURSUANT TO F.R. A. P. 4(a), 10(a), (e), 11(b), 28(a)(3),(e) AND 30(a) PROMULGATED BY THIS COURT, AND THUS DEPRIVE PETITIONER OF FIRST AND FIFTH AMENDMENT FEDERAL CONSTITUTIONAL RIGHTS BY THE DISMISSAL OF THE APPEAL ON AUGUST 18, 1975.

II. WHETHER A "PROCEDURAL MAZE" HAS BEEN CREATED TO DEFEAT A JUDICIAL REVIEW BY THE COURT OF APPEALS IN THAT, INTER ALIA, PAGE 8 OF THE ONE-VOLUME RECORD CERTIFIED AND TRANSMITTED TO THE CLERK OF THE COURT OF APPEALS ESTABLISHES ON ITS FACE THAT THE RECORD IS INCOMPLETE AND IMPROPER FOR USE ON THIS APPEAL, AND, IN ADDITION, THE ORDER OF THE DISTRICT JUDGE ENTERED ON FEBRUARY 12, 1975 ESTABLISHES ON ITS FACE THAT PETITIONER'S "NOTICE TO CLERK TO PREPARE RECORD OR RECORDS" FOR USE ON APPEAL TO THE COURT OF APPEAL IS STILL WITHHELD IN THE DISTRICT COURT.

III. WHETHER UNDER THE BANKRUPTCY RULES, EFFECTIVE OCTOBER 1, 1973. RULES 4(a), 10(a), (e), 11(b), 28(a)(3), 28(e) AND 30(a), F.R.A.P., HAVE BEEN ABROGATED AS TO DENY FIRST AND FIFTH AMENDMENT FEDERAL CONSTITUTIONAL RIGHTS AND AS TO CONFER POWER UPON THE LOWER FEDERAL COURT TO LEGISLATE UPON THE SUBJECT OF BANKRUPTCIES, INCONSISTENT WITH ARTICLE I, SECTION 8, CLAUSE 4 OF THE UNITED STATES CONSTITUTION, INCONSISTENT WITH ARTICLE VI, CLAUSE 2 OF THE UNITED STATES CONSTITUTION, AND INCONSISTENT WITH THE RULES PROMULGATED BY THIS COURT FOR THE RIGHT TO A JUDICIAL REVIEW UPON APPEAL WITH A PROPER AND COMPLETE RECORD FOR USE ON APPEAL.

## CONSTITUTIONAL PROVISIONS

United States Constitution:

Article I, Section 8, Clause 4, 1 Stat. 97 (1787), is set forth in Appendix O.

Article VI, Clause 2, 1 Stat. 97 (1787), is set forth in Appendix O.

Amendment I (U.S.C.A. Const. Amend 1), 1 Stat. 97, (1791) is set forth in Appendix O.

Amendment V (U.S.C.A. Const. Amend. 5),(Due Process of Law), 1 Stat. 97 (1791) is set forth in Appendix O.

## STATUTES

United States Code:

28 U.S.C. Section 2075 is set forth in Appendix P.

## RULES

F.R.A.P., 28 U.S.C.:

Rule 4(a) is set forth in Appendix Q.

Rule 10(a) and (e) are set forth in Appendix Q.

Rule 11(b) is set forth in Appendix Q.

Rule 28(a)(3) and (e) are set forth in Appendix Q.

Rule 30(a) is set forth in Appendix Q.

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## STATEMENT OF THE CASE

STATE PROCEEDINGS:

Continuous violations of supersedeas appeal bonds by APPELLEE BETTY DOLAR;

Continuous violations of additional supersedeas appeal bonds by APPELLEE BETTY DOLAR;

Transfer and conveyance of joint tenancy interest in real estate by APPELLEE BETTY DOLAR contrary to separate property decree:

The bankrupt, Edward John Kazubowski, is a dentist, having constructed his office and residence under the same roof, in the City of Kewanee, Henry County, Illinois, upon return from W.W. II, with Honorable Discharge and prior to any marriage to the APPELLEE BETTY DOLAR, and with a G. I. Mortgage to the Union Federal Savings and Loan Association of Kewanee, Illinois.

The financial destruction of Edward John Kazubowski, bankrupt, was not caused by a lack of professional skill, but rather by the repeated and continuous violations and defiance by the APPELLEE BETTY DOLAR of each and every appeal bond approved as supersedeas appeal bonds in the Courts of the State of Illinois, totalling $50,000.00 whereon Edward John Kazubowski was named principal and the

divorced Betty Dolar was named appellee.

A final, judicial, divisible decree of divorce was awarded to Betty Dolar Kazubowski from Edward John Kazubowski on June 13, 1966 in the Circuit Court of Henry County, 14th Judicial Circuit, Cause No. 65-D-1240, entitled: "Betty Dolar Kazubowski, plaintiff, vs. Edward J. Kazubowski, defendant".

After more than expiration of the 30-day period in which to appeal from the final, judicial, divisible decree of divorce and on August 31, 1966, the appellee Betty Dolar procured a separate property decree, entered and filed in said cause No. 65-D-1240 in the Circuit Court of Henry County, 14th Judicial Circuit.

The sole basis for the property settlement decree was a document entitled "STIPULATION" signed by Gregg A. YOung as Attorney for Betty Dolar Kazubowski, plaintiff, and signed by a person, or persons, as "PERONA & PERONA, Attorneys for Edward J. Kazubowski", but not authorized by Edward J. Kazubowski.

The property settlement decree materially departed from the document entitled "Stipulation".

One of the material alterations involves title

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to the real estate in dispute.

By the terms and conditions of the unauthorized "stipulation", the divorced appellee Betty Dolar was to make an immediate conveyance of her joint tenancy interest in said real estate.

By the terms and conditions of the property settlement decree, which approved the "stipulation", adopted and incorporated the "stipulation" in the said property settlement decree, the divorced appellee Betty Dolar Kazubowski was to retain her joint tenancy in the said real estate as security only for the payment of the sums "stipulated" to be paid, to-wit: $20,500.00. $5,000.00 of the total sum of $20,500.00 was ordered to be in lieu of and in full satisfaction of all rights to alimony that the divorced Betty Dolar Kazubowski may have.

The total sum of $20,500.00 was ordered payable as follows:

> "$5,000.00 cash on or before September 1, 1966, provided that said $5,000.00 shall be reduced by the amount of $100.00 paid as temporary alimony since July 25, 1966. The balance remaining or $15,500.00 shall be paid in four equal installments each in the amount of $3,875.00 payable on the first

day of September in 1967, 1968, 1969 and 1970.

Said payments shall bear no interest . . . Five Thousand Dollars of the total amount agreed to be paid to the plaintiff and counterdefendant shall constitute periodic payments of alimony and shall be in lieu of and in full satisfaction of all rights to alimony which the plaintiff and counterdefendant may have. Said $5,000.00 of alimony shall be paid in periodic payments of $1,250.00 on September 1st of 1967, 1968, 1969 and 1970 and shall be included within the total payment of $3,875.00 to be made on said dates as provided for herein. Said alimony payments shall be conditioned so that any future alimony payments will be terminated in the event of the death or remarriage of the plaintiff and counterdefendant."

"That except as provided herein, the plaintiff is permanently barred from any and all additional rights to alimony."

Each of the parties were ordered to pay their own attorney fees and to pay the expenses incurred by them since November 20, 1965, and the defendant, Edward J. Kazubowski, now the bankrupt, was ordered to pay the unpaid court costs. (Omitted from record).

The "Stipulation" and property settlement decree was held binding upon both parties by the Appellate Court, Third Judicial District of Illinois, Case No. 66-101. reported as Kazubowski v. Kazubowski, 93 Ill. App.2d 126 (1968), affirmed in Kazubowski v.Kazubowski,

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45 Ill. 2d 405 (1970), suppressing at all times mention of the repeated violations of the supersedeas appeal bonds by the appellee Betty Dolar, and, with a refusal to vacate or set aside the orders procured by appellee Betty Dolar, and with a refusal to correct, vacate or set aside the acts and proceedings by appellee Betty Dolar against Edward J. Kazubowski, now the bankrupt, against petitioner, and against three of the living sureties and co-sureties on $50,000.00 supersedeas bonds.

The continuous proceedings in violations of the supersedeas bonds includes a transfer and conveyance by appellee Betty Dolar of the real estate in dispute to the secretary of one of her attorneys on October 28, 1968.

The secretary of Attorney Gregg A. Young made an immediate reconveyance of the same described real estate to appellee Betty Dolar on October 28, 1968.

The quit-claim deeds were recorded on October 31, 1968 in the Office of the Recorder of Henry County, Illinois. (Omitted from record).

Monies and other properties have been extracted,

seized and confiscated from Edward J. Kazubowski, now the bankrupt, from petitioner and other member of the family of the bankrupt, and from three of the living sureties and co-sureties on the supersedeas appeal bonds IN EXCESS of the requirements specified in the property "stipulation" settlement decree of August 31, 1966, as and for alleged non-payment under the said property "stipulation" settlement decree, as and for alleged additional alimony for the appellee Betty Dolar, and as and for alleged attorneys' fees for the attorneys of appellee Betty Dolar.

The three living sureties and co-sureties were forced to give additional $40,000.00 appeal bonds, approved as supersedeas appeal bonds in the Courts of the State of Illinois to stay proceedings pending appeal from the order procured by appellee Betty Dolar in the separate action commenced against said three living sureties and co-sureties by appellee Betty Dolar to recover $50,000.00 on the supersedeas appeal bonds of Edward J. Kazubowski, now the bankrupt.

A total of $90,000.00 appeal bonds, approved

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as supersedeas in the courts of Illinois did not stay any proceedings nor serve any benefit.

No remedy for relief was afforded in the Courts of Illinois or in the United States Supreme Court.

No remedy for relief was afforded to Edward J. Kazubowski, now the bankrupt,in the U.S. District Court For the Southern District of Illinois, Northern Division, or in the U.S. Court of Appeals For the Seventh Circuit, or in the United States Supreme Court concerning the groundless search warrant procured by appellee Betty Dolar for the person of Edward J. Kazubowski, at the address of his home, served upon Edward J. Kazubowski by the Sheriff of Henry County, Illinois, after a breaking and entering into the home by the Sheriff, two deputy sheriffs, the Chief of Police of the City of Kewanee, Illinois and two other city police officers, and by which groundless search warrant, and connivance upon the court, the said Edward J. Kazubowski, now the bankrupt, was sentenced to serve consecutive sentences of eight (8) months unless $28,000.00 paid for the purchase of his liberty.

BANKRUPTCY PROCEEDINGS:

Petitioner was induced by appellee Charles A. Covey, and brother of appellee-Referee Stephen J. Covey, to pay $155.00 for preparation and filing of a voluntary petition in bankruptcy for her brother, the said Edward John Kazubowski, so as to obtain the relief in the Federal Courts theretofore at all times denied in the reviewing courts of Illinois, the said U.S. District Court, the said Court of Appeals and the Supreme Court of the United States, and, to recover assets belonging to the bankrupt's estate, to have a determination for dischargeability of debt under the said property settlement decree of August 31, 1966, to have a determination for dischargeability of debt, or liability, under the supersedeas and additional supersedeas bonds whereon Edward John Kazubowski was named principal and the divorced appellee Betty Dolar Kazubowski was named appellee, and, to procure a Federal Writ of Habeas Corpus for release of said Edward John Kazubowski, who had been serving consecutive sentences of eight (8) months since June 29, 1971 unless $28,000.00 paid for the purchase of

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his liberty by petitioner and other member of the family of Edward John Kazubowski as and for alleged non-payment under the property "stipulation" settlement decree, as and for alleged additional alimony for the appellee Betty Dolar, and as and for alleged attorneys' fees for appellee Betty Dolar's Attorneys, irrespective of the fact that monies and other properties in excess of the requirements specified in the said property "stipulation" settlement decree had been extracted, seized and confiscated by appellee Betty Dolar from Edward John Kazubowski, now the bankrupt, from petitioner and other member of the family of Edward John Kazubowski and from the three living sureties and co-sureties on the supersedeas bonds.

The petition in bankruptcy was filed by appellee Charles A. Covey on December 3, 1971 (omitted from record).

Appellee Charles A. Covey did not thereafter perform any of the duties owed to his client, Edward John Kazubowski, or any of the duties for which the sum of $155.00 was paid.

Without an application for appointment of a

RECEIVER, and on December 8, 1971, the appellee-REFEREE appointed appellee WILLIAM H. CHRISTISON as RECEIVER of the bankrupt's estate, who took possession of the 1963 Lincoln automobile of the bankrupt in Kewanee, Illinois and had said automobile taken to Peoria, Illinois; took possession of the stocks and dividend checks and life insurance policy of the bankrupt, and, took the accounts receivable.

At the First Meeting of Creditors on December 21, 1971, the appellee-REFEREE conducted a limited examination of the bankrupt to the exclusion of petitioner, as well as to other bonafide creditors, suppressing the true cause of the financial destruction of the said Edward John Kazubowski, and thereafter immediately appointed appellee WILLIAM H. CHRISTISON as TRUSTEE of the bankrupt's estate.

No complete inventory of all the property of the bankrupt has ever been filed by appellee WILLIAM H. CHRISTISON, as RECEIVER, or by appellee WILLIAM H. CHRISTISON, as TRUSTEE pursuant to the requirements of Order 17(1) of the General Orders in Bankruptcy.

The appellee TRUSTEE did not make report to the

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court within five days after receiving notice of his appointment of the articles set off to the bankrupt according to the provisions of Section 47 of the Act, with the estimated value of each article, thus preventing and prohibiting petitioner, as well as other bonafide creditors and the bankrupt, from filing objections pursuant to Order 17(2) of the General Orders In Bankruptcy.

The appellee-TRUSTEE did not make application for a duly court appointed appraiser.

The appellee-REFEREE did not appoint an appraiser as required pursuant to Section 70 sub. (f) of the Act (11 U.S.C. § 110(f) ).

The appellee-TRUSTEE did not perform the statutory duties imposed upon the TRUSTEES pursuant to Section 47a of the Act (11 U.S.C. § 75 sub. (a)).

Expiration date for filing claims was June 21, 1972 (Claims Docket omitted from record).

The order of Discharge in Bankruptcy was entered on February 8, 1972.

After release of service of more than 7½ months of the 8 months consecutive sentences, the bankrupt

discharged APPELLEE CHARLES A. COVEY on February 23, 1972.

On March 27, 1972, the APPELLEE-TRUSTEE sold the 1963 automobile of the bankrupt at public auction in Peoria, Illinois "free and clear of all liens, claims and encumbrances with said liens, claims and encumbrances to attach to the proceeds of the sale" for a represented purchase price of $600.00, concealing the name of the purchaser, (omitted from record).

On May 16, 1972, the APPELLEE-TRUSTEE re-sold the same 1963 automobile of the bankrupt at public auction in Peoria, Illinois "free and clear of all liens, claims and encumbrances with said liens, claims and encumbrances to attach to the proceeds of the sale" for $300.00 or 50% less than the represented purchase price on March 27, 1972, and still concealing the name of the purported purchaser on March 27, 1972 (omitted from record).

Claims filed against the estate totalled $173,132.16 --- $111,194.61 of which were filed as secured claims; $122.33 filed as priority TAX claim and a priority claim of $25,000.00, and petition for nondischargeability thereof, was filed by JULIA

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CHINLUND, EXECUTOR OF THE ESTATE OF JOHN J. ANGIELCZYK, a deceased co-surety on a total of $30,000.00 supersedeas appeal bonds of Edward John Kazubowski in the courts of Illinois, alleging $25,000.00 due and owing the decedent's estate as and for non-payment under the property "stipulation" settlement decree of August 31, 1966, (omitted from record).

The APPELLEE BETTY DOLAR filed a claim on June 6, 1972 alleging $37,283.51 "PAID", and alleging the sum of $50,330.98 still justly due from the bankrupt for equitable alimony and attorneys' fees, and, further claiming an interest in the "PROCEEDS OF THE SALE OF STOCK WHICH THE TRUSTEE HEREIN HAS SOLD", and further claiming "AN INTEREST IN THE PROCEEDS OF THE REAL ESTATE TO BE SOLD BY THE TRUSTEE HEREIN" (omitted from record).

On December 12, 1972, the APPELLEE-TRUSTEE sold at public auction the real estate in dispute and described in Schedule B-1 of the Petition in Bankruptcy "free and clear of all liens, claims and encumbrances with said liens, claims and encumbrances to attach to the proceeds of the sale" (omitted from record).

On April 5, 1973, the APPELLEE-TRUSTEE re-sold at public auction the same real estate in dispute and described in Schedule B-1 of the Petition in Bankruptcy "free and clear of all liens, claims and encumbrances with said liens, claims and encumbrances to attach to the proceeds of the sale" (omitted from record)

On April 5, 1973, the APPELLEE-TRUSTEE sold at public auction the bankrupt's household goods and furnishings, Dental Equipment, Dental supplies, office furnishings and reception room furnishings "free and clear of all liens, claims and encumbrances with said liens, claims and encumbrances to attach to the proceeds of the sale" (omitted from record).

No opportunity was afforded to petitioner, or other bonafide creditors, for any hearing concerning the sale and resale of the bankrupt's said property, real and personal.

The condition of the bankrupt's estate has never been made known to petitioner or to other bonafide creditors.

Six prior appeals to the Court of Appeals by petitioner, in addition to numerous original actions

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commenced in the Court of Appeals for relief, have not resulted in a determination on the merits of the issues raised and presented, leaving the underlying issues to persist and agitate. No relief was granted by this Court.

The seventh appeal and instant appeal has its origin from the APPELLEE-REFEREE'S denial and overruling on July 23, 1974 of petitioner's objections to the proceedings PRECEDING the REFEREE'S order of July 1, 1974 and from the APPELLEE - REFEREE'S orders entered on July 26, 1974 and on August 1, 1974 (APP. N), (Orders of July 1, 1974 and July 26, 1974 omitted from record), (APP. L and M).

BANKRUPTCY RULES, EFFECTIVE OCTOBER 1, 1973:

Prior to the Bankruptcy Rules, Effective Oct. 1, 1973, the APPELLEE-REFEREE presented a sole and ultimate issue, ignoring petitioner's issues raised and presented for review.

On August 5, 1974, petitioner (appellant below) filed Notice of Appeal from the APPELLEE-REFEREE'S Orders entered on July 26, 1974 and on August 1, 1974 with the said REFEREE pursuant to Rules 801 and 802 of the Bankruptcy Rules.

On July 23, 1974, no claims had been allowed EXCEPT as shown on a certified copy of the Claims Docket (APP.R ), certified to on date of July 23, 1974, date of a purported hearing, establishing that the secured claim of the mortgagee, filed in the amount of $975.81 was paid on August 1, 1973 in the amount of $1,623.14 (omitted from record).

The Claims Docket (APP. R) further establishes the sum of $13,724.39 was paid to APPELLEE BETTY DOLAR "as sec (10-17-73) See Ord. 6-8-73)", and the sum of $10,320.00 allowed to a created and improper claim of JULIA CHINLUND, EXECUTOR OF THE ESTATE OF JOHN J. ANGIELCZYK, Deceased, with a notation "SEE STIPULATION".

The order entered by the APPELLEE-REFEREE on July 1, 1974, using the Official Bankruptcy Form No. 29 (Eff. October 1, 1973), setting hearing for July 23, 1974, states in pertinent part as follows (APP.L):

> "The account of the TRUSTEE above shows receipts of $28,487.87 and total disbursements of $18,813.01. The balance on hand is $9,674.86. In addition to expenses of administration as may be allowed by the court, liens and priority claims totalling $122.33 must be paid in advance of any dividend to general creditors. Claims of general creditors totaling $138,265.37 have been allowed."

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The APPELLEE-REFEREE'S order of July 1, 1974 further states:

> "Trustee will offer for sale free and clear to the highest bidder the following: three gold coins, Neye travel alarm clock and five gold nuggets."

In effect, on July 23, 1974 there was no "hearing".

No copies of a detailed statement of receipts and disbursements were available to petitioner, or to other bonafide creditors, or to the bankrupt.

Petitioner was not duly served with copies of the APPELLEE-REFEREE'S orders entered on July 26, 1974 and on August 1, 1974.

After filing timely Notice of Appeal with the APPELLEE-REFEREE, petitioner complied with the provisions of Rules 806 and 808 of the Bankruptcy Rules (Eff. Oct. 1, 1973).

On November 1, 1974, petitioner received a letter from the clerk of the district court informing petitioner (appellant below) of the docket entry order of the district judge on October 29, 1974 as follows:

> "Ordered by the Court that the appeal herein is dismissed and the Order of

> the Referee for Distribution of the Estate is hereby affirmed in all respects." (APP. S).

Notice of Appeal to the U.S. Court of Appeals For the Seventh Circuit was filed with the clerk of the district court on November 25, 1974, with appeal bond, conditioned upon the district judge setting forth the docket order entry upon a separate document as required of him.

On December 2, 1974, the district judge issued an order "NUNC PRO TUNC OCTOBER 29, 1974, AFFIRMING REFEREE ON REVIEW (Referee's Order of July 1, 1974" (APP. J).

On December 23, 1974, petitioner forwarded to the clerk of the district court her "NOTICE TO CLERK TO PREPARE RECORD OR RECORDS" for use on appeal to the Court of Appeals, shown filed on December 26, 1974 (See App. K).

On January 6, 1975, petitioner received a letter from the clerk of the Court of Appeals, dated January 3, 1975, informing appellant that the record had been received and the time within which to docket this appeal expires on January 6, 1975.(APP. T ).

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The docket fees were paid on January 6, 1975 and the one-volume record was stamped "FILED JAN. 7, 1975".

The "INDEX" of the one-volume record as prepared, certified and transmitted to the clerk of the court of Appeals bears the district clerk's certificate dated December 18, 1974 and prior to petitioner's "NOTICE TO CLERK TO PREPARE RECORE OR RECORDS" (APP. U and V).

PROCEEDINGS IN COURT OF APPEALS:

On January 17, 1975, petitioner filed her MOTION FOR CORRECTION OF RECORD pursuant to F.R.A.P. 10(a) and (e) so as to have the specified and designated original papers set forth in the NOTICE TO CLERK TO PREPARE RECORD OR RECORDS included for a proper and complete record for use on appeal and/or for supplemental record to be certified and transmitted to the clerk of the Court of Appeals.

On January 20, 1975, the Court of Appeals issued an order directing "that counsel for the appellees respond to said motion on or before January 30, 1975 (APP. B).

None of the appellees having denied the omissions and exclusion of the designated and specified original papers filed with the clerk of the district court, the Court of Appeals entered an order on February 3, 3, 1975, ordering the Clerk to transmit petitioner's motion and APPELLEE BETTY DOLAR'S response to the U.S. District Court for consideration as provided for in Federal Rules of Appellate Procedure 10(e) in that (appellant) petitioner's motion seeks adjudication of a dispute as to whether the record truly discloses what occurred in the district court (APP. C).

On February 6, 1975, petitioner filed Motion For Extension of Time To File Appellant's Brief With Affidavit In Support Thereof.

By order of the Court of Appeals entered on February 12, 1975, petitioner was granted an extension of 30 days from the date of the District Court's order disposing of the "MERITS" of (appellant's) petitioner's motion to correct the record (APP. D).

On February 12, 1975, the district judge issued an Order making rulings, findings or determinations contrary to and inconsistent with the docket entries

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of the district court, irrespective of the fact that said docket entries were incomplete, and, admitting that petitioner's NOTICE TO CLERK TO PREPARE RECORD OR RECORDS is still withheld in the district court, and, intentionally and/or deliberately making a ruling that (appellant), petitioner herein, "also failed to file here any brief or argument in support of her said latest notice of appeal to this court (filed with the Referee herein on August 5, 1974" (APP. K). (Also see APP. W) Petitioner's (appellant below) Brief and Appendix filed September 9, 1974 with Clerk of district court).

Petitioner's Motion in the Court of Appeals for clarification and amplification of the nature of the recital of "a dispute" for "adjudication" by the district court and of the "whereabouts" of the record from date of December 18, 1974 to January 3, 1975 and for other relief under F.R.A.P. 10(a) was denied by the order entered on February 25, 1975 (APP. E).

On March 6, 1975, petitioner filed her second Motion For Extension of Time To File and Serve Appellant's Brief For Lack Of, Omission and Exclusion

Of Specific and Designated Original Papers Omitted From Contents of One-Volume Record Making The Record Incomplete For Purposes of The Appeal, With Affidavit In Support Thereof, and For Other Relief, granted by the order of the Court of Appeals entered on March 12, 1975 (APP. F).

Case No. 74-1203 docketed in the Supreme Court on March 22, 1974 of the United States/entitled: "Anna A. Phelps, Petitioner vs. The United States District Court For The Southern District of Illinois, Northern Division and the Honorable Robert D. Morgan, Judge, etc., Respondents", being a Motion For Leave To File Petition For Writ of Mandamus and annexed Petition For Writ of Mandamus, was denied on May 27, 1975.

On April 9, 1975, petitioner filed her third Motion For Extension of Time To File and Serve Appellant's Brief For Lack Of, Omission and Exclusion of Specific and Designated Papers Omitted and Excluded From Contents of One-Volume Record, etc., ---- DENIED on the same date, to-wit: April 9, 1975 (APP. G).

On May 6, 1975 an order was entered by the Court

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of Appeals ordering petitioner to respond within 30 days "as to why the appeal should not be dismissed for lack of prosecution" (APP. H).

On June 4, 1975, petitioner forwarded her verified Response as to why the "appeal should not be Dismissed For Lack of Prosecution".

On June 26, 1975, an order was entered in the Court of Appeals Ordering petitioner to file her brief with the said Court of Appeals on or before July 25, 1975, or this appeal will be dismissed for lack of prosecution (APP. I).

On July 22, 1975, petitioner forwarded to the Clerk of the Court of Appeals her verified "OBJECTIONS TO ORDER ENTERED ON JUNE 26, 1975".

On August 18, 1975, an order was entered by the Court of Appeals wherein this appeal "is hereby DISMISSED for lack of prosecution" (APP. A).

## REASONS FOR GRANTING THE WRIT

I. PETITIONER HAS FILED TIMELY NOTICE OF APPEAL TO THE COURT OF APPEALS WITH THE CLERK OF THE DISTRICT COURT AND HAS PAID TIMELY DOCKET FEES IN THE COURT OF APPEALS UPON NOTICE FROM THE CLERK OF THE COURT OF APPEALS THAT THE RECORD HAD BEEN TRANSMITTED TO THE COURT OF APPEALS, AND THE COURT OF APPEALS MAY NOT DEFEAT AND NULLIFY PETITIONER'S SECURED RIGHT TO A JUDICIAL REVIEW UPON THE APPEAL BY PREVENTING AND PROHIBITING PETITIONER FROM OBTAINING A PROPER AND COMPLETE RECORD FOR USE ON APPEAL PURSUANT TO F.R.A.P. 4(a), 10(a), (e), 11(b), 28(a)(3),(e) AND 30(a) PROMULGATED BY THIS COURT, AND THUS DEPRIVE PETITIONER OF FIRST AND FIFTH AMENDMENT FEDERAL CONSTITUTIONAL RIGHTS BY THE DISMISSAL OF THE APPEAL ON AUGUST 18, 1975.

This is an appeal which involves a proceedings in bankruptcy and a controversy arising therein permitted by law as of right from the district court to the Court of Appeals pursuant to Rule 4(a), F.R.A.P.

F.R.A.P. 10(a) unequivocally provides for the composition of the Record on appeal, including a certified copy of the docket entries.

All docket entries of the Bankruptcy court have been omitted and excluded from the record on appeal.

The docket entries of the district court are incomplete in that, inter alia, petitioner's NOTICE TO CLERK TO PREPARE RECORD OR RECORDS for use on

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appeal in the Court of Appeals is still withheld in the district court.(See APP. K).

F.R.A.P. 11(b), unequivocally sets forth the Duty of the clerk of the district court to transmit the record.

F.R.A.P. 28(a) unequivocally sets forth what the brief of the appellant shall contain.

F.R.A.P. 28(a)(3) expressly provides in pertinent part:

> ". . . There shall follow a statement of the facts relevant to the issues presented for review, with appropriate references to the record (see subdivision (e) )." (Emphasis added).

F.R.A.P. 28(e) unequivocally provides for references in the briefs to parts of the record.

Petitioner's right to a judicial review upon this appeal has been completely nullified by the refusal of the Court of Appeals to comply with the Rules promulgated by this Court.

II. A "PROCEDURAL MAZE" HAS BEEN CREATED TO DEFEAT A JUDICIAL REVIEW BY THE COURT OF APPEALS IN THAT, INTER ALIA, PAGE 8 OF THE ONE-VOLUME RECORD CERTIFIED AND TRANSMITTED TO THE CLERK OF THE COURT OF APPEALS ESTABLISHES ON ITS FACE THAT THE RECORD IS INCOMPLETE AND IMPROPER FOR USE ON THIS APPEAL, AND, IN ADDITION THE ORDER OF THE DISTRICT JUDGE ENTERED ON FEBRUARY 12, 1975 ESTABLISHES ON ITS FACE THAT PETITIONER'S NOTICE TO CLERK TO PREPARE RECORD OR RECORDS FOR USE ON APPEAL TO THE COURT OF APPEALS IS STILL WITHHELD IN THE DISTRICT COURT.

The order of the district judge entered on February 12, 1975 (APP. K) is inconsistent with and contrary to page 8 of the record as prepared, certified and transmitted to the clerk of the Court of Appeals (APP.W.),and admits petitioner's NOTICE TO CLERK TO PREPARE RECORD OR RECORDS is still being withheld in the district court, inconsistent with the Rules promulgated by this Court as complained of herein, and, inconsistent with 28 U.S.C. § 2075.

III. UNDER THE BANKRUPTCY RULES, EFFECTIVE OCTOBER 1, 1973, RULES 4(a), 10(a), (e), 11(b), 28(a)(3), 28(e) AND 30(a), F.R.A.P., HAVE NOT BEEN ABROGATED AS TO DENY FIRST AND FIFTH AMENDMENT FEDERAL CONSTITUTIONAL RIGHTS AND AS TO CONFER POWER UPON THE LOWER FEDERAL COURT TO LEGISLATE UPON THE SUBJECT OF BANKRUPTCIES, INCONSISTENT WITH ARTICLE I, SECTION 8, CLAUSE 4 OF THE UNITED STATES CONSTITUTION, INCONSISTENT WITH ARTICLE VI, CLAUSE 2 OF THE UNITED

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STATES CONSTITUTION, AND INCONSISTENT WITH THE RULES PROMULGATED BY THIS COURT FOR THE RIGHT TO A JUDICIAL REVIEW UPON APPEAL WITH A PROPER AND COMPLETE RECORD FOR USE ON APPEAL.

The power to legislate on the subject of bankruptcies is conferred expressly upon Congress by Article I, Section 8, Clause 4 of the United States Constitution.

The Bankruptcy Rules, Effective October 1, 1973, does not abrogate the right to a judicial review upon appeal to the Court of Appeals, and does not abrogate the right to a proper and complete record for use upon the appeal.

The order entered on August 18, 1975, dismissing petitioner's appeal was entered in bad faith in that petitioner is "ham-strung" by the refusal of the lower Federal Court at all times to allow petitioner a proper and complete record for use on this appeal pursuant to Rules promulgated by this Court.

The arbitrary denial to the equal access to the lower Court is a refusal to adhere to Article VI, Clause 2 of the United States Constitution, and a denial of petitioner's First and Fifth Amendment

Federal Constitutional rights.

CONCLUSION

For these reasons this Court should issue its writ of certiorari to the Court below and direct that a proper and complete record in compliance with petitioner's NOTICE TO CLERK TO PREPARE RECORD OR RECORDS be prepared, certified and transmitted by the clerk of the said district court to the clerk of the said Court of Appeals and that petitioner may prepare, serve and file her brief pursuant to the Rules promulgated by this Court with references to the record.

Petitioner prays this Court to enter such other order, or orders, as may be just in the premises.

Respectfully submitted,

ANNA A. PHELPS
R.F.D. #4, South Euclid Avenue
Princeton, Illinois 61356
PETITIONER, PRO SE
(An Attorney at Law, admitted to the Roll of Attorneys in the United States District Court For the Southern District of Illinois on June 21, 1955)

APPENDIX A

# United States Court of Appeals

**For the Seventh Circuit**

**Chicago, Illinois 60604**

August 18, 1975

**Before**

**Hon.** WALTER J. CUMMINGS, Circuit Judge

**Hon.** WILBUR F. PELL, JR., Circuit Judge

**Hon.** JOHN PAUL STEVENS, Circuit Judge

IN THE MATTER OF:
EDWARD JOHN KAZUBOWSKI,
Bankrupt,
ANNA A. PHELPS,
Appellant,

No. 75-1015 vs. WILLIAM H. CHRISTISON, ETC., ET AL.,
Appellees.

Appeal from the United States District Court for the Southern District of Illinois, Peoria Division.

(P-BK-71-782)

This matter comes before the Court on the Court's own motion of June 26, 1975. This Court entered an order giving the appellant until July 25, 1975 to file her brief in this appeal. That order further stated that, "[if] her brief is not filed by that date, this appeal will be dismissed for lack of prosecution." To this date appellant's brief has not been filed. On consideration whereof,

IT IS ORDERED that this appeal is hereby DISMISSED for lack of prosecution.

PPI-81—8-7-75-200-444

APPENDIX B

# United States Court of Appeals

For the Seventh Circuit

Chicago, Illinois 60604

January 20, 1975

By the Court:

IN THE MATTER OF:
EDWARD JOHN KAZUBOWSKI,
Bankrupt,
ANNA A. PHELPS,
Appellant,
No. 75-1015 vs.
WILLIAM H. CHRISTISON, etc., et al.,
Appellees.

Appeal from the United States District Court for the Southern District of Illinois, Peoria Divsn.
No. P BK 71 782

This matter comes before the Court on appellant's "Motion for Correction of Record" filed herein by the appellant, pro se, on January 17, 1975. On consideration whereof,

IT IS ORDERED that counsel for the appellees respond to said motion on or before January 30, 1975.

FPI 81—12 8-23-10M 1500

APPENDIX C

# United States Court of Appeals

**For the Seventh Circuit**
**Chicago, Illinois 60604**

February 3, 1975

**Before**

**Hon.** WILBUR F. PELL, JR., Circuit Judge

**Hon.** _____

**Hon.** _____

IN THE MATTER OF:
EDWARD JOHN KAZUBOWSKI, Bankrupt,
ANNA A. PHELPS,
Appellant,

No. 75-1015 vs.

WILLIAM H. CHRISTISON, ETC., ET. AL.,
Appellees.

Appeal from the United States District Court for the Southern District of Illinois. Peoria Divsn.

(P BK 71 782)

This matter comes before the court on appellant's pro se motion for correction of the record and on appellee's response thereto. On consideration whereof, being that appellant's motion seeks adjudication of a dispute as to whether the record truly discloses what occurred in the district court,

IT IS ORDERED that the Clerk of this Court transmit appellant's motion and appellee's response to the U.S. District Court for the Southern District of Illinois, Northern Division, for consideration as provided for in Federal Rule of Appellate Procedure 10(e).

APPENDIX D

# United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

February 12, 1975

By the Court:

IN THE MATTER OF:
EDWARD JOHN KAZUBOWSKI,
Bankrupt,
ANNA A. PHELPS,
Appellant,
No. 75-1015 vs.
WILLIAM H. CHRISTISON, etc., et al.,
Appellees.

Appeal from the United States District Court for the Southern District of Illinois, Peoria Divsn.
No. P BK 71 782

This matter comes before the Court on appellant's pro se motion for extension of time to file a brief. Appellant has previously moved this Court to correct the record, and, by order of February 3, 1975, that motion was transmitted to the District Court pursuant to F.R.A.P. 10(a). Appellant apparently requests this extension so that she may have benefit of a corrected record in preparing her brief, should the District Court grant her motion. On consideration whereof,

IT IS ORDERED that the appellant is hereby GRANTED an extension of time to file her brief of thirty (30) days from the date of the District Court's order disposing of the merits of appellant's motion to correct the record.

IT IS FURTHER ORDERED that the Clerk of the United States District Court for the Southern District of Illinois shall notify the Clerk of this Court when an order disposing of the merits of the motion for correction of the record is entered.

APPENDIX E

# United States Court of Appeals

**For the Seventh Circuit**
**Chicago, Illinois 60604**

February 25, 1975

**Before**

**Hon.** WILBUR F. PELL, Jr., Circuit Judge

**Hon.** _____

**Hon.** _____

IN THE MATTER OF:
EDWARD JOHN KAZUBOWSKI, Bankrupt
ANNA A. PHELPS,
Appellant,

No. 75-1015 vs.

WILLIAM H. CHRISTISON, ETC., ET AL.,
Appellees.

Appeal from the United States District Court for the Southern District of Illinois, Peoria Division.

(P BK 71 782)

This matter comes before the Court on the "MOTION FOR AN ORDER FOR CLARIFICATION AND AMPLIFICATION OF THE ORDER ENTERED ON FEBRUARY 3, 1975, etc...," filed herein by the appellant Anna A. Phelps, pro se, on February 14, 1975. On consideration whereof, this Court being fully advised in the premises,

IT IS ORDERED that said motion be, and the same is hereby, DENIED.

FPI-81—8-7-33-208-884

APPENDIX F

# United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

March 12, 1975

By the Court:

IN THE MATTER OF:
EDWARD JOHN KAZUBOWSKI, Bankrupt
ANNA A. PHELPS,
Appellant,

No. 75-1015 vs.

WILLIAM H. CHRISTISON, ETC., ET AL.,
Appellees.

Appeal from the United States District Court for the Southern District of Illinois, Peoria Division.

(P BK 71 782)

This matter comes before the Court on the "Motion For Extension Of Time To File And Serve Appellant's Brief Etc.," filed herein on March 6, 1975 by the appellant, Anna A. Phelps, pro se. On consideration whereof,

IT IS ORDERED that the time for filing the appellant's pro se brief is hereby extended to and including April 14, 1975. Counsel is admonished to in the future conform all requests for extensions of time to the affidavit requirements of Circuit Rule 25.

APPENDIX G

# United States Court of Appeals

**For the Seventh Circuit**

**Chicago, Illinois 60604**

April 9, 1975

**By the Court:**

IN THE MATTER OF:
EDWARD JOHN KAZUBOWSKI, Bankrupt,
ANNA A. PHELPS,
Appellant,

No. 75-1015 vs.

WILLIAM H. CHRISTISON, ETC., ET AL.,
Appellees.

Appeal from the United States District Court for the Southern District of Illinois, Northern Divsn

(P BK 71 782)

This matter comes before the court on the "Motion For Extension Of Time To File And Serve Appellant's Brief For Lack Of, Omission And Exclusion Of Specific And Designated Original Papers Omitted And Excluded From Contents Of One-Volume Record, Making The Record Incomplete For Purposes Of This Appeal, With Affidavit In Support Thereof, And, For Other Relief" filed herein on April 9, 1975 by the pro se appellant Anna A. Phelps. On consideration whereof,

IT IS ORDERED that said motion be, and the same is hereby, DENIED.

APPENDIX H

CERTIFIED COPY

# United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

A True Copy:
Teste:

P. Doherty, Dep Cl
Clerk of the United States Court of Appeals for the Seventh Circuit.

May 6, 1975

By the Court:

IN THE MATTER OF:
EDWARD JOHN KAZUBOWSKI, Bankrupt
ANNA A. PHELPS,
Appellant,

No. 75-1015 vs.

WILLIAM H. CHRISTISON, ETC., ET AL.,
Appellees.

Appeal from the United States District Court for the Southern District of Illinois, Peoria Divsn.

(P BK 71 782)

The Clerk has brought to the attention of this Court the fact that you have failed to file appellant's brief within the required time, or to request that the time for filing appellant's brief be extended pursuant to Circuit Rule 25. On consideration whereof,

IT IS ORDERED that you as appellant respond within thirty (30) days of the date of this order as to why your appeal should not be dismissed for lack of prosecution.



POOR

APPENDIX I

# United States Court of Appeals

**For the Seventh Circuit**

**Chicago, Illinois 60604**

June 26, 19 75

**Before**

**Hon.** WILBUR F. PELL, JR., Circuit Judge

**Hon.** _____

**Hon.** _____

IN THE MATTER OF:
EDWARD JOHN KAZUBOWSKI, Bankrupt,
ANNA A. PHELPS,
Appellant,

No. 75-1015 vs.

WILLIAM H. CHRISTISON, ETC., ET AL.,
Appellees.

Appeal from the United States District Court for the Southern District of Illinois, Peoria Division.

(P BK 71 782)

This matter comes before the Court on the appellant's response to this Court's "Order To Show Cause Why This Appeal Should Not Be Dismissed For Lack Of Prosecution," entered on May 6, 1975.

In that response appellant states that she is unable to prepare and file her brief because the record on appeal is incomplete. The only documents alleged to be missing from the record that are described with any specificity are the following:

1. "Appellant's Brief and Appendix," filed below on September 9, 1974;
2. "Appellant's Reply Brief to Brief for Betty Dolar, Appellee," filed below on September 23, 1974;
3. Certain "objections" filed by the appellant on July 23, 1974; and
4. An order issued by the referee in bankruptcy on July 26, 1974.

The documents numbered 3. and 4. above do not appear on the docket entries of the proceedings below, and, therefore, appellant's contention that the record is incomplete because it does not include them is without merit. Documents 1. and 2. do appear on the docket entries, but briefs filed in the court below are not an essential

771-81—6-7-75-100-644



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part of the record on appeal; and, since these documents are briefs filed by the appellant herself, their omission from the record should not hinder the appellant in preparing her brief.

As the appellant apparently contends that her arguments on appeal hinge upon or are dependent upon matter contained in documents 3. and 4., she is granted leave to attach copies of those documents to her brief in the nature of appendix. In the event that appellees should object to the inclusion of those documents in the record, they may interpose a challenge to them in their answer brief, and this issue, if it arises, will be considered with the merits of the appeal.

The order to show cause entered by this Court on May 6, 1975 is discharged. The appellant will file her brief with this Court on or before July 25, 1975. If her brief is not filed by that date, this appeal will be dismissed for lack of prosecution.



POOR C

APPENDIX J

FILED

DEC 2 - 1974

at _____ O'clock ____ M
WILLIAM J. LITTELL, CLERK

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS
NORTHERN DIVISION

| | | |
|---|---|---|
| In the Matter of<br>EDWARD JOHN KAZUBOWSKI,<br><br>Bankrupt. | )<br>)<br>)<br>) | IN BANKRUPTCY<br><br>NO. P-BK-71-782 |

NUNC PRO TUNC ORDER
AFFIRMING REFEREE ON REVIEW
(Referee's Order of July 1, 1974)

At a hearing herein, pursuant to notice, on October 29, 1974, at which appellant Anna A. Phelps did not appear, this court orally announced to the parties present that the appeal filed herein on August 23, 1974 by Anna A. Phelps was denied and the Order of the Referee for distribution of the estate entered by said Referee was affirmed in all respects.

It now appears to the court that better practice for strict and careful compliance with Rules 54(a) and 58, Federal Rules of Civil Procedure, requires such a decision to be on a separate document.

Accordingly, nunc pro tunc October 29, 1974, IT IS ORDERED that the appeal filed by Anna A. Phelps herein on August 23, 1974, be dismissed, and the Order of the Referee in Bankruptcy, from which said appeal was taken, is affirmed in all respects.

Robert D. Morgan
United States District Judge

Entered: December 2, 1974
Nunc pro tunc October 29, 1974



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APPENDIX K

FILED

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS
NORTHERN DIVISION

FEB 12 1975

at .....O'clock.....M
WILLIAM J. LITTELL, CLERK

| | | |
|---|---|---|
| In the Matter of<br>EDWARD JOHN KAZUBOWSKI,<br><br>Bankrupt. | ) | IN BANKRUPTCY<br><br>NO. P-BK-71-782 |

ORDER concerning case captioned as follows:

---

IN THE UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

| | | |
|---|---|---|
| ANNA A. PHELPS,<br><br>Appellant,<br><br>No. 75-1015 v.<br><br>WILLIAM H. CHRISTISON, etc., et al.,<br><br>Appellees. | ) | Appeal from the United States District Court for the Southern District of Illinois, Northern Division<br><br>(P-BK-71-782) |

---

Pursuant to order of the Honorable WILBUR F. PELL, Circuit Judge for the United States Court of Appeals for the Seventh Circuit, dated February 3, 1975, in that court's case No. 75-1015, this court has undertaken to consider whether the record now before the said Court of Appeals in its said case "truly disclosed what occurred in the district court," in order that, if not, the said record may be "made to conform to the truth" as provided by Rule 10(e), F.R.A.P.

It may be said categorically that nothing in said record transmitted by the Clerk of this court to the said Court of Appeals indicates anything but the truth on the subject matter to which it relates, except possible slight, inadvertent typographical errors or omissions. None such have been specified.

The latest appeal to this court from the Bankruptcy Judge herein was entered on the docket here on August 23, 1974 (as shown by Exhibit A



POOR C

to the latest and instant motion of appellant ANNA A. PHELPS). It shows that the said Bankruptcy Judge transmitted here as part of that Record on Appeal, as item 8, "Complete file of case." The office of the said Referee retained nothing filed prior to that date.

All of that record was transmitted to the said Court of Appeals by the Clerk of this court, together with record of subsequent action here, under said Clerk's several certificates, all dated December 18, 1974. None of said record is here. Nothing remains here except appellant's "Notice to Clerk to Prepare Record or Records," filed December 26, 1974, which had been fully satisfied eight days earlier.

It seems clear from the prayer of her Motion for Correction of Record that appellant believes certain documents were not included in the record. In any event, no more can be supplied by this court without clear specification and location, because it is aware of none such.

It seems reasonable to require, as suggested by paragraph 2 of the objection by appellee Betty Dolar in the Court of Appeals to appellant's current Motion for Correction of Record, that some specification be given of asserted materiality to some specified justiciable issue of whatever additional material might be sought.

It is noted that, although notified thereof by mail on August 27, 1974, appellant, Anna A. Phelps, did not attend the hearing for oral argument held in this court on October 29, 1974, and that she also failed to file here any brief or argument in support of her said latest notice of appeal to this court (filed with the Referee herein on August 5, 1974).

In view of the assertions of bad faith in said Motion for Correction of Record, all the parties to this proceeding should have an opportunity to make suggestions for any action by this court, in response to the said order of the said Court of Appeals dated February 3, 1975, and counsel for all parties are considered to have an affirmative duty, as officers of this court, to specify any known or suspected defect in the record.

IT IS ORDERED that any such suggestions or specifications be filed with the Clerk of this court on or before Monday, April 7, 1975.



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The Clerk of this court is directed to serve copy of this Order by mail upon all parties to the subject appeal in this court, or to any pending matter involving Anna A. Phelps or Edward John Kazubowski in the Court of Appeals, as well as upon the Clerk of the United States Court of Appeals for the Seventh Circuit and the Bankruptcy Judge of this court.

Robert D. Morgan
United States District Judge

Entered: February 12, 1974



POOR C

B.O.F. 29-S

# APPENDIX L

## UNITED STATES DISTRICT COURT

for the SOUTHERN District of ILLINOIS

In re

EDWARD JOHN KAZUBOWSKI,

Bankrupt*

Bankruptcy No. P BK 71-782

## ORDER FOR FINAL MEETING OF CREDITORS AND NOTICE OF FILING OF FINAL ACCOUNT[S] OF TRUSTEE [AND RECEIVER] AND OF FINAL MEETING OF CREDITORS [AND OF HEARING ON ABANDONMENT OF PROPERTY BY THE TRUSTEE]

To the creditors:

The final report[s] and account[s] of the trustee [*if appropriate:* and of the receiver] in this case having been filed.

It is ordered, and notice is hereby given, that the final meeting of creditors will be held at

ROOM 329, U.S. POST OFFICE BLDG., PEORIA, ILLINOIS, on JULY 23, 1974, at 10:30 o'clock A.m., for the purpose [*as appropriate*] of examining and passing on the report[s] and account[s], acting on applications for allowances, and transacting such other business as may properly come before the meeting. Attendance by creditors is welcomed but not required.

The following applications for allowances have been filed:

| Applicants | Commissions or fees | Expenses |
|---|---|---|
| WILLIAM H. CHRISTISON, *Receiver* | $STATUTORY | $ |
| WILLIAM H. CHRISTISON, *Trustee* | $STATUTORY | $ |
| CHARLES A. COVEY, *Attorney for Bankrupt* | $1160.00 | $30.30 |
| WILLIAM H. CHRISTISON, *Attorney for Receiver* | $340.00 | $10.80 |
| WILLIAM H. CHRISTISON, *Attorney for Trustee* | $6320.00 | $10.80 |
| ---, *Attorney for Petitioning Creditors* | $ | $ |
| --- | $ | $ |

Creditors may be heard before the allowances are determined.

The account of the trustee shows total receipts of $ 28487.87, and total disbursements of $18813.01. The balance on hand is $ 9674.86.

In addition to expenses of administration as may be allowed by the court, liens and priority claims totaling $122.33, must be paid in advance of any dividend to general creditors.

Claims of general creditors totaling $ 138265.37 have been allowed.

[*If appropriate*] The trustee's application to abandon the following property will be heard and acted upon at the meeting: Trustee will offer for sale free and clear to the highest bidder the following: three gold coins, Neye travel alarm clock and five gold nuggets.

The bankrupt has [not] been discharged.

Dated: July 1, 1974

STEPHEN J. COVEY
*Bankruptcy Judge*

COPY

APPENDIX M

FILED
at ____ o'clock ____ M
JUL 26 1974
STEPHEN J. COVEY
Clerk, U.S. District Court

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

| | | |
|---|---|---|
| IN RE | ) | |
| | ) | |
| EDWARD JOHN KAZUBOWSKI | ) | BANKRUPTCY NO. P BK 71 782 |
| | ) | |
| BANKRUPT | ) | |

**O R D E R**

This matter coming on for hearing at the final meeting of creditors in the above bankruptcy estate, and on the application of WILLIAM H. CHRISITSON, trustee, to sell to the highest bidder at said final meeting of creditors or abandon said personal property described as follows: 3 gold coins, 1 Eyne travel alarm clock, and 5 gold nuggets, and it appearing to the court that said items of personal property were offered for sale to the highest bidder at said final meeting of creditors and no offers or bids were made.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that WILLIAM H. CHRISTISON, trustee in bankruptcy herein, disclaim and abandon said above described personal property and return the same to EDWARD JOHN KAZUBOWSKI, the bankrupt.

Bankruptcy Judge

cc W. H. Christison
Esq.

APPENDIX N

FILED
at ____ o'clock ____ M
AUG 1 1974
STEPHEN J. COVEY
Referee in Bankruptcy

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS
NORTHERN DIVISION

In re

EDWARD JOHN KAZUBOWSKI,

Bankrupt.

Bankruptcy No. P BK 71 782

DISTRIBUTION ORDER

TO WILLIAM H. CHRISTISON, TRUSTEE:

This matter coming on to be heard upon the Trustee's final report filed herein on the 26th day of April, 1974, pursuant to notice of final meeting of creditors, fixing said hearing on the 23rd day of July, 1974; and.

This Court having heard the petitions of the attorney for the receiver, attorney for the trustee and the attorney for the bankrupt and having heard evidence and arguments of counsel; and,

It appearing unto the Court that you have heretofore distributed, pursuant to order of this Court, the sum of $18,813.01 and that you now have on hand the sum of $9,674.86;

YOU ARE HEREBY ORDERED to make distribution of said sum of $9,674.86, as follows:

TO:

WILLIAM J. LITTELL
Clerk of the U. S. District Court
Room 254, U. S. Post Office Building
Peoria, Illinois

Referees' Salary and Expense Fund:
3% on net realization of assets
in the amount of $28,487.87, as
Referees' fees and expenses.....$ 997.08
Clerical aid, 1 notice (in excess
of 30) @ 25¢.....$ .25
Clerical aid, 5 notices (in excess
of 30) @ 25¢ (twice).....$ 2.50
Clerical aid, 6 notices (in excess
of 30) @ 25¢ (twice).....$ 3.00
Clerical aid, 10 notices (in excess
of 30) @ 25¢.....$ 2.50
Clerical aid, 11 notices (in excess
of 30) @ 25¢ (5 times).....$ 13.75
Clerical aid, 7 claims (in excess
of 10) @ 25¢.....$ 1.75
Certified copies.....$ 1.00
TOTAL TO CLERK.....$1,021.83

WILLIAM H. CHRISTISON
Receiver in Bankruptcy
702 1st National Bank Bldg.
Peoria, Illinois
Receiver's fees.....$ 424.88

WILLIAM H. CHRISTISON
Trustee in Bankruptcy
702 1st National Bank Bldg.
Peoria, Illinois
Trustee's fees.....$ 699.88

CHARLES A. COVEY
Attorney for Bankrupt
703 Lehmann Building
Peoria, Illinois
Attorney's fees.....$1,160.00
Attorney's expenses.....$ 38.30

WILLIAM H. CHRISTISON
Attorney for Receiver
702 1st National Bank Bldg.
Peoria, Illinois
Attorney's fees.....$ 197.83
Attorney's expenses.....$ 10.80

WILLIAM H. CHRISTISON
Attorney for Trustee
702 1st National Bank Bldg.
Peoria, Illinois
Attorney's fees.....$3,677.41
Attorney's expenses.....$ 10.80

GEORGE R. KOZUCH
Court Reporter
Post Office Box 1424
United States Post Office Bldg.
Peoria, Illinois
Reporting fees.....$ 7.50

After paying the above items in full you will have on hand the sum of $2,425.63 with which you are hereby ORDERED to pay a dividend of 1.754% on the following unsecured claims:

JULIA CHINLUND, EXECUTOR
OF THE ESTATE OF JOHN J. ANGIELCZYK
330 Emmons Avenue
Kewanee, Illinois -or-
WINSTEIN, KAVENSKY & WALLACE
Attorneys at Law
Post Office Box 428
Rock Island, Illinois.....$ 181.01

RUSSELL HUDDLESTON
2341 33rd Street
Moline, Illinois.....$ 4.39

MARY KAZUBOWSKI
R. F. D. No. 4
South Euclid Avenue
Princeton, Illinois.....$ 193.29

MARY KAZUBOWSKI
R. F. D. No. 4
South Euclid Avenue
Princeton, Illinois.....$ 263.10

BETTY DOLAR -or-
C. MICHAEL GROW
Attorney at Law
718 Commercial Bank Bldg.
Peoria, Illinois.....$ 548.45

MARY KAZUBOWSKI
R. F. D. No. 4
South Euclid Avenue
Princeton, Illinois.....$ 87.70

ANNA KAZUBOWSKI PHELPS
R. F. D. No. 4
South Euclid Avenue
Princeton, Illinois.....$ 209.52

MARGARET GILIO
3701 Sunset Lane
Franklin Park, Illinois.....$ 90.25

CLARENCE W. BOLING & HELEN BOLING
516½ West 1st Street
Kewanee, Illinois.....$ 503.79

CLARENCE W. BOLING
516½ West 1st Street
Kewanee, Illinois.....$ 5.26

MARY KAZUBOWSKI
R. F. D. No. 4
South Euclid Avenue
Princeton, Illinois.....$ 338.87

After making said payments you will have disbursed the full sum of $28,487.87 realized by you from the assets of said bankrupt.

You are hereby authorized to abandon three gold coins, Neye travel alarm clock and five gold nuggets; and,

IT IS FURTHER ORDERED that the three gold coins, Neye travel alarm clock and five gold nuggets are hereby abandoned.

After making distribution in accordance with this Order you will be discharged from further acting as such Trustee.

ENTERED at Peoria, Illinois, this 1st day of August, 1974.

STEPHEN J. COVEY
Bankruptcy Judge

---

TRUSTEE'S REPORT OF DISTRIBUTION

I hereby report that I have made final distribution in accordance with the above order.

DATED: _____

_____
Trustee in Bankruptcy

## APPENDIX O

## CONSTITUTIONAL PROVISIONS

United States Constitution:

Article I, Section 8, Clause 4 (1 Stat.97 (1787):

The Congress shall have Power . . . To establish . . . uniform Laws on the subject of Bankruptcies throughout the United States.

Article VI, Clause 2 (1 Stat. 97 (1787):

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

First Amendment (1 Stat. 97 (1791):

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Fifth Amendment (Due Process of Law), 1 Stat. 97 (1791):

No person shall . . . be deprived of life, liberty, or property, without due process of law.

APPENDIX P

STATUTES

United States Code:

28 U.S.C. § 2075; Bankruptcy Rules

The Supreme Court shall have the power to prescribe by general rules, the forms of process, writs, pleadings, and motions, and the practice and procedure under the Bankruptcy Act.

Such rules shall not abridge, enlarge, or modify any substantive right.

Such rules shall not take effect until they have been reported to Congress by the Chief Justice at or after the beginning of a regular session thereof but not latter than the first day of May and until the expiration of ninety days after they have been thus reported.

All laws in conflict with such rules shall be of no further force or effect after such rules have taken effect. Added Oct. 3, 1964, Pub. L 88-623, § 1, 78 Stat. 1001

APPENDIX Q

RULES

F.R.A.P., 28 U.S.C.,

Rule 4. Appeal as of Right - When Taken

(a) Appeals in Civil Cases. In a civil case (including a civil action which involves an admiralty or maritime claim and a proceeding in bankruptcy or a controversy arising therein) in which an appeal is permitted by law as of right from a district court to a court of appeals the notice of appeal required by Rule 3 shall be filed with the clerk of the district court within 30 days of the date of the entry of the judgment or order appealed from; but if the United States or an officer or agency thereof is a party, the notice of appeal may be filed by any party within 60 days of such entry. If a timely notice of appeal is filed by a party, any other party may file a notice of appeal within 14 days of the date on which the first notice of appeal was filed, or within the time otherwise prescribed by this subdivision, whichever period last expires. . .

Rule 10. The Record on Appeal

(a) Composition of the Record on Appeal. The original papers and exhibits filed in the district court, the transcript of proceedings, if any, and a certified copy of the docket entries prepared by the clerk of the district court shall constitute the record on appeal in all cases.

(e) Correction or Modification of the Record. If any difference arises as to whether the record truly discloses what occurred in the district court, the difference shall be submitted to and settled by that court and the record made to conform to the truth. If anything material to either party is omitted from the record by error or accident or is misstated therein, the parties by stipulation, or the district court either before or after the record is transmitted to the court of appeals, or the court of appeals, on proper suggestion or of its own initiative, may direct that the omission or misstatement be corrected, and if necessary that a supplemental record be certified

and transmitted. All other questions as to the form and content of the record shall be presented to the court of appeals.

Rule 11. Transmission of the Record

(b) Duty of Clerk to Transmit the Record. When the record is complete for purposes of the appeal, the clerk of the district court shall transmit it to the clerk of the court of appeals. The clerk of the district court shall number the documents comprising the record and shall transmit with the record a list of the documents correspondingly numbered and identified with reasonable definiteness. Documents of unusual bulk or weight and physical exhibits other than documents shall not be transmitted by the clerk unless he is directed to do so by a party or by the clerk of the court of appeals. A party must make advance arrangements with the clerks for the transportation and receipt of exhibits of unusual bulk or weight.

Transmission of the record is effected when the clerk of the district court mails or otherwise forwards the record to the clerk of the court of appeals. The clerk of the district court shall indicate, by endorsement on the face of the record or otherwise, the date upon which it is transmitted to the court of appeals.

Rule 28. Briefs

(a) Brief of the Appellant. The brief of the appellant shall contain under appropriate headings and in the order here indicated:

(3) A statement of the case. The statement shall first indicate briefly the nature of the case, the course of proceedings, and its disposition in the court below. There shall follow a statement of the facts relevent to the issues presented for review, with appropriate references to the record (see subdivision (e)).

(e) References in Briefs to the Record. References in the briefs to parts of the record reproduced

in the appendix filed with the brief of the appellant (see Rule 30(a)) shall be to the pages of the appendix at which those parts appear. If the appendix is prepared after the briefs are filed, references in the briefs to the record shall be made by one of the methods allowed by Rule 30(c). If the record is reproduced in accordance with the provisions of Rule 30(f), or if references are made in the briefs to parts of the record not reproduced, the references shall be to the pages of the parts of the record involved: e.g., Answer p. 7, Motion for Judgment p.2, Transcript p. 231. Intelligible abbreviations may be used. If reference is made to evidence the admissibility of which is in controversy, reference shall be made to the pages of the appendix or of the transcript at which the evidence was identified, offered, and received or rejected.

Rule 30. Appendix to the Briefs

(a) Duty of Appellant to Prepare and File; Content of Appendix; Time for Filing; Number of Copies. The appellant shall prepare and file an appendix to the briefs which shall contain: (1) the relevant docket entries in the proceeding below; (2) any relevant portions of the pleadings, charge, findings or opinion; (3) the judgment, order or decision in question; and (4) any other parts of the record to which the parties wish to direct the particular attention of the court. The fact that parts of the record are not included in the appendix shall not prevent the parties or the court from relying on such parts.. . .

# APPENDIX R

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF ILLINOIS
NORTHERN DIVISION

I, STEPHEN J. COVEY a Referee in Bankruptcy JUDGE in and for said District, DO HEREBY CERTIFY that the attached copy of CLAIM DOCKET.

in the case of EDWARD JOHN KAZUBOWSKI

bankrupt (Debtor), No. P BK 71 782, has been compared with the original thereof and that it is a complete and correct copy of such original as it appears of record and on file in my office.

IN TESTIMONY WHEREOF I have hereunto set my hand at PEORIA in said District, this 23RD day of JULY, 19 74.

Referee in Bankruptcy. JUDGE

EXPIRES: JUNE 21, 1972

NAME OF BANKRUPT (LAST NAME FIRST): EDWARD JOHN KA SKI

71782

| CLAIM NO. | NAME AND ADDRESS OF CLAIMANT (and name and address of attorney, if any) | AMOUNT OF CLAIMS FILED AND ALLOWED | REMARKS |
|---|---|---|---|
| 1 | DATE FILED: JANUARY 27, 1972<br>UNION FEDERAL SAVINGS & LOAN ASSN<br>104 N. TREMONT ST., KEWANEE, ILL.<br>ATTY: CHARLES BLACHINSKY<br>106 N. TREMONT ST., KEWANEE, ILL. | FILED<br>$975.81<br>ALLOWED<br>$ | SECURED<br>U. 16.23.1.1 (See Ord 8-1-73) |
| 2 | DATE FILED: FEBRUARY 2, 1972<br>JULIA CHINLUND, EXECUTOR OF ESTATE OF JOHN J. ANGIELCZYK<br>330 EMMONS AVE., KEWANEE, ILLINOIS | FILED<br>$ 25,000.00<br>ALLOWED<br>$10320 | ~~PRIORITY~~<br>see stipulation |
| 3 | DATE FILED: MARCH 17, 1972<br>MARGARET GILIO<br>3701 SUNSET LANE, FRANKLIN PK, ILL. | FILED<br>$ 5,145.66<br>ALLOWED<br>$ -0- | ~~PRIORITY~~<br>See #12 duplicate |
| 4 | DATE FILED: MARCH 23, 1972<br>CLARENCE W. BOLING<br>516½ W. 1ST ST., KEWANEE, ILLINOIS | FILED<br>$ 20,875.43<br>ALLOWED<br>$ -0- | ~~PRIORITY~~<br>See #13 (amended) |
| 5 | DATE FILED: MARCH 23, 1972<br>HELEN L. BOLING<br>516½ W. 1ST, KEWANEE, ILLINOIS | FILED<br>$ 20,875.43<br>ALLOWED<br>$ -0- | ~~PRIORITY~~<br>See #13 (amended) |
| 6 | DATE FILED: APRIL 7, 1972<br>RUSSELL HUDDLESTON<br>2341 32RD ST., MOLINE, ILLINOIS | FILED<br>$ 250.00<br>ALLOWED<br>$ | |
| 7 | DATE FILED: MAY 2, 1972<br>MARY KAZUBOWSKI<br>133 E. DIVISION ST., KEWANEE, ILL. | FILED<br>$ 11,020.00<br>ALLOWED<br>$ | ~~SECURED~~ |
| 8 | DATE FILED: MAY 2, 1972<br>MARY KAZUBOWSKI<br>133 E. DIVISION ST., KEWANEE, ILL. | FILED<br>$ 15,000.00<br>ALLOWED<br>$ | ~~SECURED~~ |
| 9 | DATE FILED: JUNE 6, 1972<br>BETTY DOLAR<br>ATTY: MICHAEL GROW<br>718 COML NATL BK BLDG., PEO., ILL. | FILED<br>$ 50,330.98<br>ALLOWED<br>$ 4/4/951.88 | SECURED<br>P.A. 13,724. 3rd sen (10-11-73)<br>(See O.1 6-8-73) |

31,227.49

EXPIRES: JUNE 21 1972

NAME OF BANKRUPT OR DEBTOR: EDWARD JOHN KAZ : KI — NO. K 71 782

| CLAIM NO. | NAME AND ADDRESS OF CLAIMANT (and name and address of attorney, if any) | AMOUNT OF CLAIMS FILED AND ALLOWED | REMARKS |
|---|---|---|---|
| 10 | DATE FILED: JUNE 15, 1972<br>MARY KAZUBOWSKI<br>133 E. DIVISION ST.,KEWANEE, ILL. | FILED $ 5,000.00<br>ALLOWED $ | |
| 11 | DATE FILED: JUNE 15, 1972<br>ANNA KAZUBOWSKI PHELPS<br>133 E. DIVISION ST.,KEWANEE, ILL. | FILED $ 11,945.50<br>ALLOWED $ | |
| 12 | DATE FILED: JUNE 15, 1972<br>MARGARET GILIO<br>3701 SUNSET LANE,FRANKLIN PK,ILL. | FILED $ 5,145.66<br>ALLOWED $ | SECURED ,<br>~~AMENDED~~<br>DUPLICATE OF #3 |
| 13 | DATE FILED: JUNE 15, 1972<br>CLARENCE W. BOLING & HELEN BOLING<br>516½ W. 1ST ST., KEWANEE, ILL. | FILED 28,722.16<br>~~$ 22,136.38~~ $ 28,722.16<br>ALLOWED $ | SECURED<br>AMENDS # 4 & 5 |
| 14 | DATE FILED: JUNE 15, 1972<br>CLARENCE W. BOLING<br>516½ W. 1ST ST.,KEWANEE, ILL. | FILED $ 300.00<br>ALLOWED $ | |
| 15 | DATE FILED: JUNE 15, 1972<br>MARY KAZUBOWSKI<br>133 E. DIVISION ST.,KEWANEE, ILL. | FILED $ 19,319.22<br>ALLOWED $ | |
| 16 | DATE FILED: JULY 13, 1972<br>INTERNAL REVENUE TAXES<br>P.O. BOX 745, CHICAGO, ILLINOIS<br>U.S. ATTORNEY FOR THE SO. DIST. OF ILL.<br>P.O. BOX 375,600 E. MONROE ST.,<br>SPRINGFIELD, ILL. 62705 | FILED $ 122.33<br>ALLOWED $ | PRIORITY TAXES |
| 17 | DATE FILED: April 10, 1973<br>City of wanee<br>200 W. Third<br>Kewanee, Ill. | FILED $ 14.84<br>ALLOWED $ | |
| | DATE FILED: | FILED $ - - - -<br>ALLOWED $ | |

FORM No. 75 - REVISED SEP. 1962 — CLAIMS REGISTER — UNITED STATES DISTRICT COURTS



POOR

APPENDIX S

UNITED STATES DISTRICT COURT
OFFICE OF THE CLERK
SOUTHERN DISTRICT OF ILLINOIS

WILLIAM J. LITTELL
CLERK

Peoria, Illinois 61601
October 31, 1974

Mrs. Anna A. Phelps
Attorney at Law
R.F.D. # 4
Princeton, Illinois

Mr. William Christison
Attorney at Law
First National Bank Bldg.
Peoria, Illinois

Mr. Charles Covey
Attorney at Law
Lehmann Bldg.
Peoria, Ill.

Mr. William Altenberger
Attorney at Law
718 Commercial National Bank Bldg.
Peoria, Ill.

Mr. Max J. Lipkin
Assistant U.S. Attorney
Federal Bldg.
Peoria, Illinois

Re: In the Matter of Edward John Kabubowski, Bankrupt
P-BK-71-782

Dear Gentlemen and Mrs. Phelps:

Please be advised that on October 29, 1974, Judge Robert D. Morgan entered the following order in the above named cause:

"Ordered by the Court that the appeal herein is dismissed and the Order of the Referee for Distribution of the Estate entered by him on August 1, 1974 is hereby affirmed in all respects."

Very truly yours,

William J. Littell

William J. Littell, Clerk

ab
cc; Mr. S.Covey



COPY

APPENDIX T

United States Court of Appeals
For the Seventh Circuit
219 South Dearborn Street
Chicago, Illinois 60604

Thomas F. Strubbe
Clerk
312-431-9400 x212

January 3, 1975

Anna A. Phelps
RFD #4, South Euclid Ave.
Princeton, Illinois 61356

Re: In the matter of:

Edward John Kazubowski
Bankruptcy No. P-Bk-71-782

Sir:

We have received the record in the above entitled cause from the District Court in Peoria, Ill.

Upon inspection of the record it has been determined that the time within which to docket this appeal expires on January 6, 1975, and the docketing fee in the amount of $50.00, or motion to proceed in forma pauperis prepared according to U.S.C. 28, Section 1915, should be received in this office on or before that date.

Very truly yours,

John E. Panek,
Chief Deputy Clerk

# APPENDIX U

## INDEX


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| FINAL REPORT AND ACCOUNT OF TRUSTEE, filed April 26, 1974 | 12 |
| APPLICATION FOR ATTORNEY'S FEES, filed April 26, 1974 | 16 |
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| PETITION FOR ATTORNEY FEES, filed June 26, 1974 | 24 |
| DISTRIBUTION ORDER, filed August 1, 1974 | 27 |
| NOTICE OF APPEAL TO DISTRICT COURT, filed August 5, 1974 | 31 |
| DESIGNATION OF CONTENTS FOR INCLUSION IN RECORD ON APPEAL AND STATEMENT OF ISSUES, filed August 14, 1974 | 32 |
| BRIEF FOR BETTY DOLAR, filed September 17, 1974 | 47 |
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| NOTICE OF APPEAL TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT, ~~filed~~ filed November 25, 1974 | 79 |
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| NUNC PRO TUNC ORDER AFFIRMING REFEREE ON REVIEW, (Order of July 1, 1974), filed December 2, 1974 | 89 |
| CLERK'S CERTIFICATE dated December 18, 1974 | 90 |


CERTIFIED COPY

A True Copy:
Teste:

Clerk of the United States
Court of Appeals for the
Seventh Circuit.

# APPENDIX V

UNITED STATES OF AMERICA )
)
SOUTHERN DISTRICT OF ILLINOIS ) ss:
)
NORTHERN DIVISION )

I, William J. Littell, Clerk of the United States District Court in and for the Southern District of Illinois, do hereby certify the foregoing to be the true and complete record of the original proceedings filed in my office August 23, 1974 at Peoria, Illinois in the matter of EDWARD JOHN KAZUBOWSKI, Bankruptcy No. P-BK-71-782.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed the seal of the aforesaid Court at Peoria, this 18th day of December A.D. 1974.

William J. Littell
William J. Littell,
Clerk, U. S. District Court

CERTIFIED COPY

A True Copy:
Teste:

Clerk of the United States
Court of Appeals for the
Seventh Circuit.

# APPENDIX W

49.

| DATE | PROCEEDINGS |
|---|---|
| 1974 | |
| Mar. 13 | Three Records mailed to U.S. Supreme Court, Washington, D.C.: (1) Anna A. Phelps, vs. S.Covey, etal. Chicago-Court of Appeals No. 73-1183; Peoria-Dis. Court No. P-Civ.-72-60; (2) Edward John Kazubowski, etc. (IN THE MATTER OF: Bankruptcy; Chicago-Court of Appeals No. 72-1800; Peoria-Dist. Court. P-BK-71-782. (3)In the Matter of EDWARD JOHN KAZUBOWSKI: Bankruptcy etc., vs. Anna A. Phelps, etc. Chicago-Ct. of Appeals 72-1800; Peoria-Bankruptcy No. P-BK-71-782;(COPY) |
| ~~Mar~~ APR. 1 | Three Records returned to Dist. Court, Peoria from the Supreme Court, Wash. D.C. as dismissed by the Supreme Court for want of a substantial federal question on February 19, 1974. THE ABOVE THREE RECORDS which were mailed to the Supreme Court, Wash. D.C. March 13, 1974. |
| August 23 | Notice of Appeal, filed. Attys. A.Phelps; W.Christison; C.Covey; W.Altenberger; D.Mackay, U.S.Atty., notified. |
| August 27 | Set for argument on appeal Tues.,Oct.29,1974,at 10:00 a.m.(Morgan,J.) |
| August 27 | Notices sent by Clerk |
| Sept. 9 | Objections to Record on Appeal as Transmitted by Referee in Bankruptcy to Clerk of this Court on Aug. 23, 1974, for Lack of Contents so Designated by Appellant on Aug.14,1974, for Lack of Certification, for Lack of Index of Contents so Designated, and in "Dumping Off" and "Throwing In" All Voluminous Volumes & Files in This Bankruptcy Estate, Inconsistent with & Contrary to Rules 806 & 807 of the Rules of Bankruptcy Procedure(Eff.Oct.1,1973),filed by Anna A. Phelps, appellant, pro se |
| Sept.9 | Separate Affidavit of Mailing, filed by Anna A. Phelps, appellant |
| Sept.9 | Appellant's Brief and Appendix, filed by Anna A. Phelps |
| Sept.9 | Separate Affidavit of Mailing, filed by Anna A. Phelps, |
| Sept.17 | Appearance of Gregg A. Young, Harper Andrews and Campbell Andrews for Betty Dolar and withdrawal of William Altenberger, attorney for Betty Dolar, filed |
| Sept.17 | Brief for Betty Dolar, Appellee, filed |
| Sept.23 | Appellant's Reply Brief To Brief For Betty Dolar, Appellee,filed |
| Sept.23 | Separate Affidavit of Service of Appellant's Reply Brief to "Brief for Betty Dolar, Appellee", filed |
| Oct. 3 | Order from Court of Appeals in their No. 73-1892 filed. Decision of Dist Court Order of June 8, 1973 affirmed. (See Order) |

Dyty Elbert Mason